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MASTER OF MILITARY STUDIES

**FINANCIAL CRISIS; DEPARTMENT OF DEFENSE SPENDING:
HOW TO CONTROL FRAUD, WASTE, AND ABUSE IN THE MILITARY**

SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF MILITARY STUDIES

LCDR C. A. SWANSON

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Executive Summary

Title: Financial Crisis; Department of Defense Spending: How to Control Fraud, Waste, and Abuse in the Military

Author: Lieutenant Commander Craig A. Swanson, United States Navy

Thesis: Pragmatic improvements and streamlining of the acquisition, contracting, and budget process can help mitigate fraud, waste, and abuse; preventing billions of dollars from being lost.

Discussion: The fiscal crisis and budgetary battle waging in Washington D.C. has many in the military concerned about what the future force is going to look like. The federal budget has become the leading issue affecting every Government Agency. The military's budget is decreasing by more than \$400 billion over the next ten years. Cuts that are more draconian are looming. The Department of Defense must be pro-active in controlling costs and capturing immediate and long-term savings where possible. There has been numerous reform efforts over the last half century to control cost; though well intended, history of reform has proven futile thus far. The way money is budgeted and spent is plagued with inefficiencies, rendering the system unable to control cost. The austere fiscal environment and finite funding available make it imperative that the military have a tangible coherent plan that can achieve both near term and long-term savings. Fraud, waste, and abuse is arguable the central issue that drives up cost significantly with absolutely no value added. It is vital to our national security that we as a military understand the crux of the problems that facilitate fraud, waste, and abuse. By being able to identify those indicators that lead to fraud, waste, and abuse, the system as a whole can be improved and streamlined to help prevent future occurrences. This thesis will analyze the negative effects of fraud, waste, and abuse from an historical perspective and make a cogent argument for pragmatic solutions to prevent future loss and capture real cost savings. The thesis will focus specifically on what can be done in the areas of acquisition, contracting, and budgeting to help mitigate fraud, waste, and abuse. Furthermore, the thesis will discuss the cost savings measures and initiatives currently being debated in Washington, and offer, for debate, several new recommendations that have yet to be seriously studied and considered.

Conclusion: The issue of fraud, waste, and abuse is not a small-localized problem only experienced by the unfortunate few organizations. Instead, fraud, waste, and abuse is a systemic problem that continues to cost billions of dollars in losses at a time when the United States Military and Federal Government can least afford it. It is the fiduciary responsibility of every military member to show good stewardship of taxpayer dollars. Coming up with simple initiatives that help prevent fraud, waste, and abuse is fundamental to our solvency as a country.

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Introduction:

The United States Government has “lost” nearly \$60 billion dollars in Iraq and Afghanistan over the past decade.¹ This \$60 billion, though staggering, only accounts for a portion of the overall waste in taxpayer dollars that is systemic throughout the Government. Much of the missing money in Iraq and Afghanistan was lost due to poor planning, waste, fraud, and abuse. Politicians in Washington and the public at large finally had had enough of money management tomfoolery and started calling for investigations and greater oversight. An independent, bipartisan legislative commission, the Commission on Wartime Contracting, was established in fiscal year 2008 to investigate fraud, waste, and abuse within the Department of Defense. The commission released their final report to Congress in August 2011 citing numerous violations. The report revealed an environment that had become ripe with waste and abuse. The commission found that of the approximate \$206 billion spent on contracts and grants in Iraq and Afghanistan, waste accounted for 10 to 20 percent and fraud another 5 to 9 percent of the total expenditures.² Total losses range from \$31 billion to \$60 billion.³

The commission’s findings and public outcry have forced the Department of Defense to take a serious look at fraud, waste, and abuse prevention. The military gets the largest share of the discretionary federal budget.⁴ Scrutinizing how DoD is spending taxpayer money is justified considering how many fraud, waste, and abuse cases have been discovered. The last decade funding for the military has been more than generous and controlling spending was not of major concern. Now in the austere fiscal environment and with looming budget cuts, the Department of Defense finds itself in an unenviable position of needing to find any way possible to save money.

In years past, if the military needed more funding all they had to do was ask and Congress would open up the checkbook. Regular Operations and Maintenance (O&M) dollars used to fund the daily operations of the military was generously augmented with additional funding for the wars in Iraq and Afghanistan. Congress not only dramatically increased the base budget for the military, but also provided Global War on Terrorism (GWOT) funds and Overseas Contingency Operations (OCO) funds on top of O&M dollars. From 2002 through 2008, the cash was flowing, but in 2008 when the financial crisis hit, the money slowly dried up as the gravity of the financial situation became evident. The endless supply of money came to an abrupt end...the proverbial gravy train stopped running.

The “eureka” moment for many politicians and military leaders was the public outrage over the national debt and financial collapse on Wall Street. Concern over how money is being spent and how to capture savings became the hot topic in Washington. Many saw eliminating wasteful spending as imperative to financial survival. The Department of Defense once again started looking seriously at ways to streamline processes and change the way of doing business in order to control cost and capture real savings.

This thesis is broken down into five areas of discussion and analysis. The following topics; the Budget, Spending, Inefficiencies, History of Reform, and The Way Ahead will be analyzed to create a constructive argument on what things can be done to prevent fraud, waste, and abuse within the Department of Defense. The Budget and Spending sections of this thesis will be informative and designed to give a general insight into the functional and dysfunctional aspects of the Federal Government. The Inefficiencies section will provide statistical data on how the budget process and spending have created a system fraught with fraud, waste, and abuse. The History of Reform section will lay out what the United States Government has done in the past to

prevent waste and control spending. The final section, The Way Ahead, will draw from discussions in the previous sections to answer the question on what the Department of Defense can do to help prevent fraud, waste, and abuse moving forward.

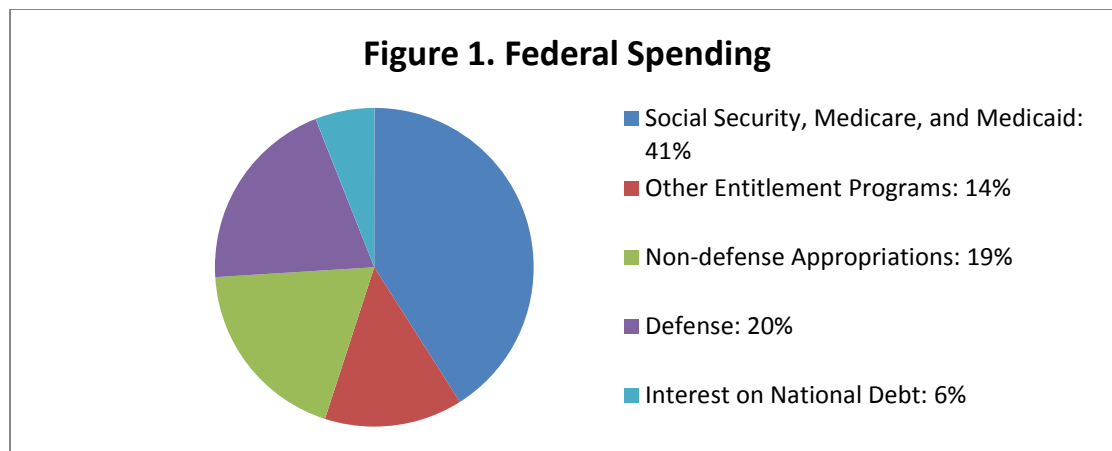
The Budget:

Tax dollars are made available for expenditure by the Federal Government through a process known as the budgetary cycle. How this cycle works can be a convoluted mess of rules and regulations. Compliance is difficult because no one person seems to have a complete understanding of the intricacies of the budget process. By law, all Government Agencies, including the Department of Defense, cannot draw funds from the United States Treasury until Congress releases the funds in the form of an appropriation. Federal budget funds are made available through this process on a fiscal year basis from 1 October to 30 September of the following year.

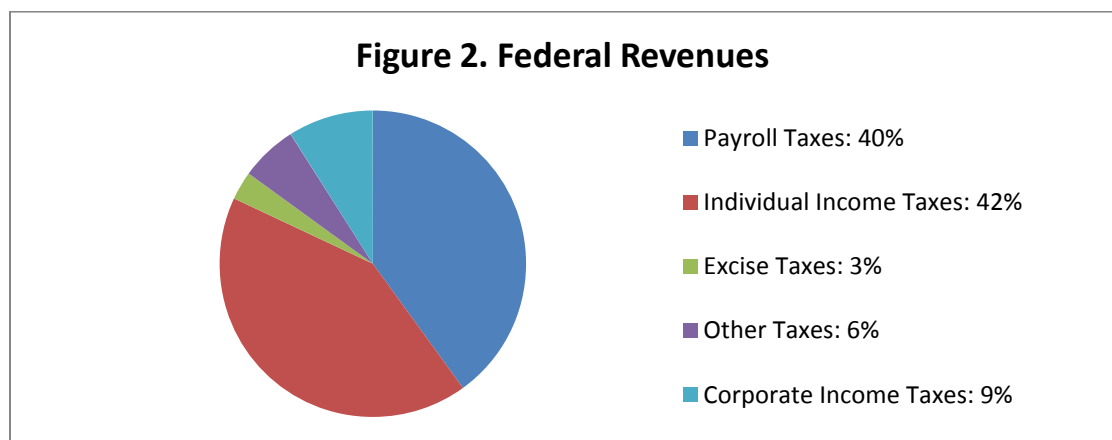
The budgetary cycle begins in a long drawn out process in the Executive Branch of government. Agencies and individual organizations under the Executive Branch conduct a thorough review of their operations and program requirements for the upcoming year. During this process, they consult with the President of the United States, Office of Management and Budget, and other government organizations to develop specific funding requirements. Once all the agencies and the President are in agreement, the Office of Management and Budget submits the detailed budget request to Congress in early February. This report lays out to Congress how much money should be allocated for spending, what the tax revenue should be, and if there will be a deficit or surplus between spending and revenue.

Congress uses the President's budget to develop legislation on taxes and spending as mandated under the Congressional Budget Act of 1974.⁵ Congress holds hearings both in the House and Senate and through this process a budget resolution is developed. This resolution then goes to the House and Senate conferences for amendments and to resolve any differences before it is sent to the floor of both houses for a vote. Once the resolution receives a majority vote it is passed. The passed bill then is sent to the President for signature or veto. The budget should be accomplished by 15 April, but if a resolution cannot be reached the previous year's resolution will be used as a continuing resolution. A continuing resolution has been in place for the last two fiscal years of FY-10 and FY-11.

The approved congressional budget resolution then provides Congress with monetary figures on how much spending is authorized in 19 "function" categories. It also outlines the tax revenue that the Internal Revenue Service will collect over the next five to ten years. The requested FY-12 budget has total expenditures of \$3.729 trillion (Figure 1) and total revenues of \$2.627 trillion (Figure 2); yielding a deficit of \$1.101 trillion.⁶ Funding is disseminated directly from the approved congressional budget resolution. Once the funds are appropriated by Congress, they are then apportioned by the Office of Management and Budget, allocated by the Executive Branch agencies, committed by specific programs, obligated by a Contracting Officer, and finally expended by a payment office.



Source: Congressional Budget Office, March 2011



Source: Congressional Budget Office, March 2011

The current requested DoD budget for FY-12 is \$670.9 billion.⁷ The rules and regulations which govern how the \$670.9 billion can be spent come from two main publications; the DoD Financial Management Regulation 7000.14-R and the Principles of Federal Appropriations Law. There are two overarching guidelines for funding provided to the Department of Defense. The first is that not all funding is the same. Different types of funds, commonly known as “colors of money,” can only be used for their intended purpose as prescribed by Congress. Secondly, all appropriations have a specific timelines (expiration date) for when they can be used. When

Congress appropriates funds, those funds are identified by law for specific purposes. The Department of Defense has several major appropriations “colors of money” it uses, each with a separate expiration date. Major DoD appropriations include, Procurement; Research-Development-Test and Evaluation (RDT&E); Operations and Maintenance (O&M); Military Construction (MILCON); Military Personnel (MILPERS); and Family Housing.

Procurement money is used for the purchase of large systems, such as aircraft and missiles; funding is good for three years. Research-Development-Test and Evaluation money is used for basic and applied scientific projects and is good for two years. Operations and Maintenance money is used for the day-to-day operations and is good for one year. Military Construction money is used for major construction, public works projects, and acquiring installations; funding is good for five years. Military Personnel money is used for paying the forces and is good for one year. Family Housing money is used to provide housing for military members and their dependents and is good for one year.

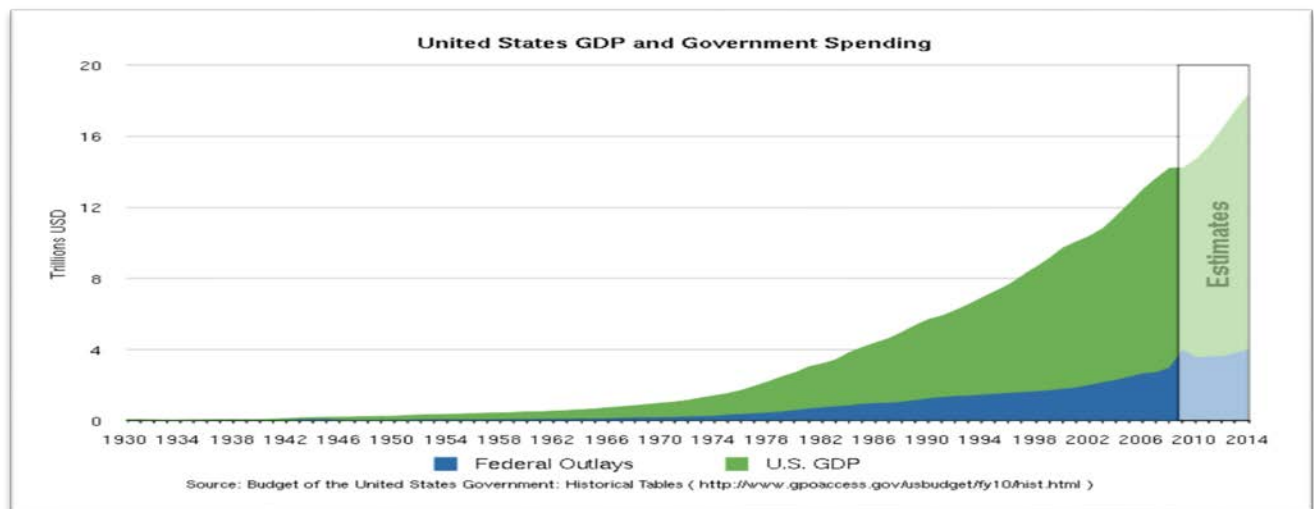
There are numerous other regulations that control how the Department of Defense handles appropriations and expends funding. Both the Anti-Deficiency Act and the Bona Fide Need Statute have considerable bearing on how funds are handled and expended. The Anti-Deficiency Act prohibits agencies from spending or committing to spend funds in advance or in excess of the appropriation.⁸ The Bona Fide Need Statute mandates that appropriations may only be used for their intended purposes and funds provided for a specific time may only be used to pay for expenses incurred during that same time period.⁹ A large portion of the federal funding provided to DoD is expended via a contracting mechanism for materials and services. Contracting Offices and their Contracting Officers must comply with myriad rules and regulations contained within the Federal Acquisition Regulations (FAR) and the Defense Federal Acquisition Regulations

(DFAR) along with any local regulations specific to a command or organization. The next section of this paper discuss how the budget, when appropriated, is spent by the Department of Defense; historical data and projections on future spending will be analyzed.

Spending:

The Federal Government for fiscal year 2012 is operating on a continuing resolution. Spending caps are based on the previous year's budget resolution with increases for inflation and budget outlays. The Executive Branch has requested expenditures for 2012 of \$3.729 trillion.¹⁰ Federal Government spending has continued to increase every year since 1930 as a percentage of the gross domestic product (Figure 3) currently at 40% of GDP.

Figure 3.

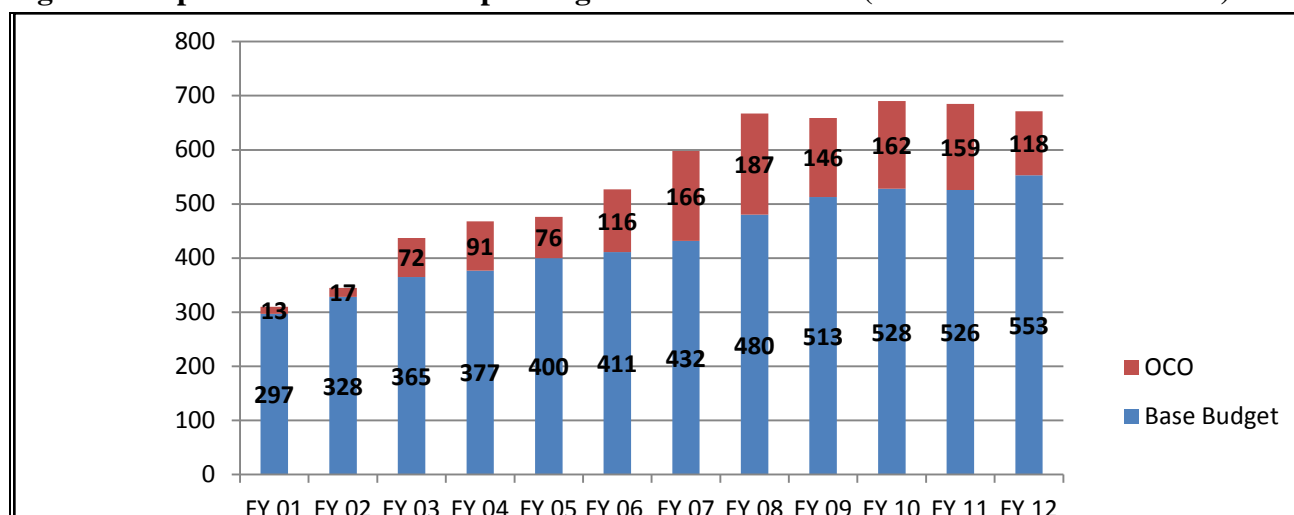


As federal spending increased so too has the federal deficit. Federal revenue streams adjusted for inflation have remained relatively unchanged over time. Federal expenditures, however, have increased during the same time period creating a negative delta that continues to grow. The

United States national debt at the start of 2012 was approximately \$15.2 trillion, not counting unfunded liabilities of nearly \$114 trillion dollars.¹¹ There is serious concern regarding the financial solvency of the United States should spending trends continue unabated. Congressman Adam Smith of Washington, Ranking Member, Committee on Armed Services opined during a hearing on Proposed Department of Defense Budget Reductions and Efficiencies that “we spent \$3.5 trillion and took in about \$2.3 trillion in revenue. That is a \$1.2 trillion difference. That is about 33 percent of everything we spend. So...from a logical standpoint, you would say to get us back to balance, we need to cut 33 percent out of everything that we spend.”¹²

Defense spending both as a percentage of GDP and total dollar amount has fluctuated considerably during times of peace and times of war (Figure 4). Current DoD spending for FY-12 is \$670.9 billion, approximately 6.5% of GDP. \$553.1 billion is for the base budget and \$117.8 billion is allocated for overseas contingency operations.¹³ The DoD base budget for FY-12 increased by \$26 billion over FY-11, but the overseas contingency operations figure decreased by \$41 billion, mainly as a result of the draw down in Iraq.¹⁴

Figure 4. Department of Defense Spending FY 2001 - FY 2012 (current dollars in billions)



Source: Department of Defense Appropriations Act FY 2001 - FY 2010, FY 2011 Continuing Resolution, FY 2011- FY 2012 President's Budget documents

The defense budget has 3 primary purposes: take care of military personnel and their families; rebalance and enhance military capabilities; and support deployed troops. Where the Department of Defense is spending tax dollars by appropriation can be seen in the DoD base budget (Table 1) and the OCO budget (Table 2) shown below. The next section of this paper will advance the discussion further by drawing a link between the convoluted budgetary cycle and spending and how both have polluted the environment with inefficiencies leading to fraud, waste, and abuse.

Table 1. DoD Base Budget by Appropriation

\$ in Thousands	FY 2011	FY 2012	Delta
Base Budget	Continuing Resolution	Request	11-12
Military Personnel	135,181,038	142,828,848	7,647,810
Operation and Maintenance	184,486,613	204,423,110	19,936,497
Procurement	104,789,161	113,028,178	8,239,017
RDT&E	80,387,203	75,325,082	-5,062,121
Military Construction	15,920,039	13,071,701	-2,848,338
Family Housing	2,258,698	1,694,346	-564,352
Revolving & Management fund	3,118,762	2,701,394	-417,368
Total	526,141,514	553,072,659	26,931,145

Source: United States Department of Defense, Overview-FY2012 Defense Budget

Table 2. OCO Funding by Appropriation

\$ in Thousands	FY 2011	FY 2012	Delta
Base Budget	Continuing Resolution	Request	11-12
Military Personnel	16,642,965	11,228,566	-5,414,399
Operation and Maintenance	109,648,488	90,760,832	-18,887,656
Procurement	29,374,960	15,021,824	-14,353,136
RDT&E	518,294	396,758	-121,536
Military Construction	1,398,984	0	-1,398,984
Family Housing	0	0	2
Revolving & Management fund	1,449,436	435,013	-1,014,423
Total	159,033,127	117,842,993	-41,190,134

Source: United States Department of Defense, Overview-FY2012 Defense Budget

Inefficiencies:

The United States Government does not operate on capitalist principles of profit and loss as seen in the private business sector. This allows the government to keep operating on a system full of bureaucracy and plagued with inefficiency. One could argue that efficiency and functionality has never been part of the Government Business Model. This is a major reason why the Federal Government is dysfunctional and prone to malfeasance. Look no further than the proverbial \$400 hammer and \$700 toilet seat to understand that the system is broken. Some reform has occurred and the current fiscal crisis has placed greater emphasis on increased oversight and accountability. Until more practical changes are implemented, the governmental system will be fraught with exploitation and serious mismanagement of taxpayer dollars. The nearly \$60 billion dollars lost in Iraq and Afghanistan because of fraud, waste, and abuse is a prime example of why maintaining the status quo is not an option.¹⁵

One of the major consequences of an inefficient system is the loss of resources, usually in the form of capital. Fraudulent activity by individuals within the system is one of the more deliberate forms of inefficiency. *Fraud involves intentionally deceiving to gain something of value that subsequently deprives the United States of that value or benefit.* Fraud can take on many forms and practices. Some of the common fraud schemes the Navy Acquisition Integrity Office has identified as indicators for military professional to be aware of include:

- Accepting bribes and gratuities
- Skimming profits and taking kickbacks or commissions
- Knowingly falsifying records and accounts
- Submitting false receipts and claims
- Misrepresentation of material facts
- Collusive bidding
- Unjustified sole source contract awards
- Multiple contract awards for similar work

- Inventory write-off accounts
- Vendor participation in contract specifications
- Inappropriate socializing between government officials and vendors
- Adulterating materials or products¹⁶

Criminality of any sort is inexcusable and cost the American taxpayers billions of dollars every year.¹⁷ Criminal activity, such as fraud, when discovered is usually sensationalized and dominates the media headlines. Many of the fraud cases being litigated in recent years have involved civilian employees and military members in the Department of Defense.¹⁸ This is most likely because the Department of Defense is the largest federal agency, receives the largest percentage of the federal budget, and therefore, receives the greatest amount of financial scrutiny and oversight.

Fraud has become a significant issue over the last decade as the federal deficit and debt hit an all time high. Some of the more notorious fraud cases being discovered are making eye-catching headlines in the news. Media transparency has given the public some assurance that fraud is being taken seriously, and also, is serving as a deterrent and warning for others who read the headlines. Several major fraud cases have been reported over the last few years in the Department of Defense. A Pentagon Contractor and his three colleagues were indicted on 71 counts of procurement fraud totalling \$298 million.¹⁹ An Army Officer was charged with accepting \$9 million in bribes and organizing a money laundering scheme that involved his wife and other family members.²⁰ A contractor was found guilty of stealing \$39.6 million dollars worth of fuel from the Army.²¹ These criminal cases represent only a few of the many cases government investigators have discovered and will continue to discover.

The prevalence of fraud have raised doubt and suspicion in the minds of many members of the House and Senate; questioning the Military's stewardship of taxpayer dollars. Over \$1

trillion dollars thus far has been spent on the wars in Iraq and Afghanistan, putting the Department of Defense in the budgetary spotlight. Investigations are still ongoing and hopefully will be able to determine how billions of dollars was fraudulently spent and how billions more remains unaccounted for and missing.

Senator Claire McCaskill of Missouri, a member of the Commission on Wartime Contracting, when discussing the Commission's findings said that "it is disgusting to think that nearly a third of the billions and billions we spent on contracting was wasted or used for fraud."²² The Commission in their 240 page report released in August 2011 discovered numerous egregious examples of waste and fraud. One of the more disturbing findings was the possibility that millions of dollars ended up in the hands of insurgent groups and the Taliban.²³ Many of the commission's findings concluded contracting and acquisition inefficiencies had played the biggest role in the loss of funds. The report stated that "failure to curb contracting-related waste, fraud, and abuse is a breach of the agencies' fiduciary duty to efficiently manage budget and resources...it undermines U.S. defense, diplomatic, and development missions."²⁴ The commission found that the main causes were projects ill-conceived and/or mismanaged; poor planning and oversight; criminal behavior and blatant corruption; over-reliance of contractors.²⁵

Procurement fraud alone within the Department of Defense accounts for millions of dollars in losses annually (Table 3). Covert and overt fraudulent activity has seriously undermined the military's mission. Taxpayers as well as government officials become outraged when they see this type of illegal activity occurring. Fraud though egregious and illicit, is not the only cause for loss. Wasteful spending and abuse account for the vast majority of financial losses seen in the Department of Defense.²⁶ In fiscal year 2012 alone it is estimated that \$10.7 billion dollars

could be saved through reorganization, better business practices, and program reductions and terminations.²⁷ Exact figures on how much the Department of Defense loses annually from fraud, waste, and abuse is unknown, but a conservative estimate is more than 1%. A study conducting during President Reagan's administration estimated that the budget could be cut by as much as 2% if fraud, waste, and abuse could be stopped.²⁸ These figures are significant when you consider 1-2% equates to \$6.7 - \$13.4 billion in annually losses from the DoD budget.

Table 3: DOD Procurement Fraud Case Results for Fiscal Years 2001-2005 (dollar amounts in millions)

Fiscal year	Criminal indictments ^a	Criminal convictions ^a	Military Article 15 ^b	Criminal judgment amount	Civil settlement amount	Administrative amount	Investigative recoveries and seizures
2001	177	137	6	\$38.6	\$103.5	\$4.9	\$0.6
2002	200	109	14	\$313.6	\$528.4	\$2.4	\$4.8
2003	176	121	10	\$40.7	\$492.4	\$19.3	\$3.8
2004	86	113	7	\$28.0	\$61.8	\$40.2	\$0.7
2005	79	85	2	\$27.1	\$263.6	\$23.7	\$0.0
Total	718	565	39	\$448.1	\$1,449.6	\$90.4	\$9.9

Source: DOD IG (data); GAO (presentation and analysis); GAO-06-838R DOD Contracting

Exactly what constitutes government waste and abuse? *Waste is when the taxpayer does not get reasonable value for their tax dollars; abuse is when behavior of an individual or individuals regarding business practices is considered improper or deficient.*²⁹ Waste is usually the result of poor oversight, negligence, and mismanagement and does not violate any laws. Abuse occurs normally when an individual, such as a Contracting Officer, uses their positional authority to create an advantageous business environment which may or may not violate any law. Fraud on the other hand is a direct violation of the law and is usually much easier to identify and simple to rectify by prosecuting individuals who break that law. The nuances of waste and abuse can be subtle and systemic within the system making it considerably more difficult to identify and stop.

The Department of Defense is too large and too complex to ensure every tax dollar is spent wisely and justly.

The amount of money lost from waste and abuse is staggering. Conservative estimates show the federal government loses more than \$100 billion annually.³⁰ The reasons why losses continue unabated year-in and year-out are innumerable. Things like complacency, apathy, and stupidity are certainly factors in the more egregious examples occurring yearly. Also, the requirement to expend all annual appropriations (“use it or lose it”) certainly does not help foster cost saving measures when personnel are trying to spend every penny before the end of year.

The Department of Defense accounts for its fair share of the \$100 billion lost annually to waste and abuse.³¹ A recent Government Accountability Office (U.S. GAO) audit discovered that over a six year period from 1997 to 2003 the Department of Defense purchased nearly 270,000 airline tickets at a cost of nearly \$100 million, but the tickets were never used. The unused tickets were fully refundable, but no one took the time or effort to apply for the refunds.³² The GAO audit also discovered that nearly 27,000 airline tickets had been paid for twice, costing the taxpayers another \$8 million. Government credit card abuse is another area of growing concern for the Department of Defense. A recent GAO audit looked at an 18 month period in the Navy and Air Force and found that military members were using their government-funded credit cards for entertainment events, gambling, vacations, strip-clubs and even prostitution. These nefarious activities totalled hundreds of thousands of dollars and represented only a fraction of total credit card abuses that goes undiscovered.³³

Another area that creates arguably more waste than any other is the redundancy of efforts within the Federal Government and Department of Defense. The government has a notorious

reputation for never getting rid of old antiquated programs. Failure to purge these old programs before implementing new ones has created a layering effect over time, whereby, several agencies are now performing the same or similar functions. There are currently 342 separate programs dealing just with economic development alone in the Federal Government.³⁴ The Department of Defense is in no way immune to these redundancies, having many areas that overlap between the Air Force, Army, Navy, and Marines. The cost associated with duplication of effort and redundancy is staggering.

Trying to reform how the Federal Government and the United States military conducts business has been a long and undistinguished process going back decades. Why the system needs to be reformed is easy to understand; how one goes about reforming it is considerably more difficult and worthy of further discussion. The next section of this paper will discuss the nearly 50 years of reform efforts that have been tried with varying degrees of success.

History of Reform:

How money is spent, particularly on defense, has been a major concern and area of contention and debate since the days of President Eisenhower. Fraud, waste, and abuse during the Vietnam War came to the forefront of discussion as defense spending skyrocketed.³⁵ Congress as well as the American people started questioning how money was being spent and if it was being wasted. President Richard Nixon, shortly after being elected in 1968, made controlling defense spending and ridding the government of rampant fraud, waste, and abuse one of the top priorities of his administration.³⁶

President Nixon along with former Secretary of Defense Robert McNamara convened a commission to begin analysing how the military was spending taxpayer dollars.³⁷ The commission, known as the Fitzhugh Commission, focused mainly on the military acquisition process and how it was plagued with problems and inefficiencies. The findings of the Fitzhugh Commission gave rise to one of the first pieces of legislation that attempted to rid or at least control fraud, waste, and abuse in the Department of Defense. The intent was good, but from 1968 through 1985 little if anything had changed. Military spending did decrease by the mid 1970s. This was not a result of efficiency and reform, but because the Vietnam War had ended and military downsizing was considerable. As the Cold War heated up in the early 1980s, defense spending was once again at the forefront of discussion on Capitol Hill.

President Ronald Reagan would be the next President to make a serious attempt at controlling wasteful spending in the military. In 1986, President Reagan established the Packard Commission to look at inefficiencies in the Department of Defense, particularly inefficiencies in the defense procurement system and acquisition process. The Packard Commission's findings and recommendations that were implemented, though laudable, did little to control defense spending. The result was eerily similar to the Fitzhugh Commission nearly two decades prior. A study on the impact of the Packard Commission's recommendation looked at three decades of history on defense program spending and concluded, "despite the implementation of more than two dozen regulatory and administration initiatives, there has been no substantial improvement in the cost performance of defense programs for more than 30 years."³⁸

Reform efforts that started nearly half a century ago to control defense spending and stop fraud, waste, and abuse have shown little success. Every few years, Congress again tries to tackle the issue by conducting another review, convening another commission, or passing

another act. The last 50 years has seen more than 128 studies looking at the defense acquisition process.³⁹ Identifying ways to control fraud, waste, and abuse within the defense system has become a pastime for many politicians in Washington who have built their careers on the issue.

During the 1990s and again in the 2000s Congress made several attempts at reform. The Federal Acquisition Streamline Act, the Defense Review Initiative, and the Federal Acquisition Improvement Act are just a few of the legislative attempts over the past two decades. These attempts have not had the desired level of success. In many respects the numerous attempts at reform have only muddled the water and added to the growing list of burdensome laws, rules, and regulations that arguably make the system far less efficient, not more. Despite the efforts, incidences of fraud, waste, and abuse are still occurring at an alarming rate.

If history is any indicator, future reform efforts will be nothing more than a reinvention of the wheel, and will do little in the way of providing real solutions. Hopefully, past performance is no indicator of future success. Nearly every avenue of reform that has been tried has failed to do much of anything positive. Decades of reform efforts have done little except add miles of red tape to a system already laden with too many laws, rules, and regulations. The issue has been legislated to death with nothing to show. There are simple pragmatic things that can be done without making the system more burdensome. It is critical that new ideas be considered. It would be absurd to once again repeat reform efforts of the past with the hope that they will achieve a different outcome this time around.

The next section of this paper will draw from the previous discussions to making a cogent argument for why there should be minor changes made to the budget, acquisition, and contracting process to facilitate actual reform. An argument will be made for why these ideas

should be considered as possible solutions to control cost, increase efficiency, and a means to help prevent fraud, waste, and abuse. To support this position reform initiatives proposed by former Secretary of Defense Robert Gates will be discussed. New ideas will also be presented to validate the thesis statement: pragmatic improvements and streamlining of the acquisition, contracting, and budget process can help mitigate fraud, waste, and abuse; preventing billions of dollars from being lost.

The way ahead:

There is an endless list of remedies that have been tried over the years to reduce military spending and increase efficiency. Past failure has usually been the result of short-sightedness in believing that somehow eliminating misspent defense dollars would pave the road to financial solvency. This premise not only ignores the lessons of history, but is completely dismissive of the cancerous effects fraud, waste, and abuse have on the effectiveness and legitimacy of an organization. Cutting spending continues to be the go-to methodology in times of financial austerity. Fortunately, civilian and military leadership as well as planners and budget forecasters appear to be taking a holistic approach to solving budget shortfalls this time around. Yes, significant cuts to various programs and manpower are imminent, but also being considered are several process improvement measures designed to capture real savings.

One of the biggest advocates in recent years for changing the ways the military does business is former Secretary of Defense Robert Gates. His proposals are bold and audacious. Current Secretary of Defense Leon Panetta appears to have embraced his predecessor's ideas, and there seems to be bipartisan support in Washington as well. Most of the proposals are tangible efficiency initiatives that, if implemented properly, can achieve significant cost savings over

time. Savings projections for the proposals beginning with the FY 2012 budget are estimated at \$178 billion over five years.⁴⁰

The three main initiatives proposed by Secretary Gates are: (1) reform defense acquisitions; (2) improve financial management; and (3) improve contingency contracting. Military business operations are centerpieces of the initiatives. By improving business practices and reducing overhead expenditures on troubled programs, real savings can be achieved (Table 4). The initiative also calls for spending to focus specifically on the core military missions, while cutting funding for outdated, ineffective, and duplicate programs that do not add value or support the overall mission set.

Table 4. Efficiencies Summary

Services' Savings by category (\$ billions)	FY 12	FY 12-16
Reorganizations	3.5	25.0
Better business practices	3.9	45.5
Program reductions / terminations	2.6	21.5
Reduced lower priority programs	0.7	8.2
Total	10.7	100.2

Source: Overview - FY 2012 Defense Budget

There are two defense acquisition reform ideas proposed by Secretary Gates that focus specifically on reducing wasteful spending. The first, ensure all investments are supportive of warfighting priorities and are affordable. The second, focus on knowledge-based acquisition processes with predictable performance outcomes, cost and schedule outcomes, and are based on technologies with realistic estimates. Financial management improvements proposed by Secretary Gates focus on reducing both fraud and abuse. They include, (1) achieve audit readiness and improve information accessibility for financial decision makers; (2) have financial statements be fully auditable by 30 September 2017; (3) improve capital budget planning; (4) complete asset visibility; and (5) reduce unmatched disbursements and improper payments.

Contingency contracting improvements proposed by Secretary Gates also focus on reducing fraud and abuse throughout the Department of Defense. The contracting improvements include, (1) implementation of new procedures and training policies focusing on ethics, governance, and contract surveillance; (2) develop a better relationship with the Defense Acquisition University (DAU); (3) create a Joint Contingency Contracting Officer Representative (COR) Handbook; (4) standardize Contingency Contracting after action reporting; and (5) improve visibility in the expeditionary environment.⁴¹

There are several additional things not being widely discussed that could facilitate capitalization of cost savings without jeopardizing defense readiness and security posturing. Secretary Gates and others seem to be using wide brush strokes and big picture ideas to find ways to increase efficiency and save money. These efforts are commendable and should continue to be pursued. However, not all efficiency initiatives need to be large in scale to achieve results. Sometimes a pragmatic approach using small brush strokes to make simple changes to an existing system can have far reaching implications and positive outcomes.

The business model of the Defense Department is far from perfect and is prone to inefficiencies. The Quadrennial Defense Review (QDR) going back to the mid 1990s has addressed this issue saying that cost-savings by implementing modern business practices would enable the military to become more efficient, cost effective, and lean.⁴² The policies and procedures governing military business practices are insufficient at controlling costs. The cost of doing business is rising faster than our capacity as a country to generate revenue either from taxes or borrowing to meet demand. Business practices of the past will not support future endeavours and will quickly lead to insolvency.

The acquisition and contracting process is a major component of the military business model. Normal day to day operations as well as long term planning is contingent on the effectiveness of acquisition and contracting. It is through this process that the military expends a majority of its funding on material goods and services. Over the last decade the Department of Defense has nearly doubled its contracting expenditure to nearly \$300 billion annually.⁴³ Since most funding is expended through various contracting mechanisms any inefficiency within the contracting process would expose the system to more fraud, waste, and abuse, which it has. An examination of how contracts are executed reveals that clamping down with new policies and procedures is not the answer. Acquisition and contracting is already heavily regulated. The Federal Acquisition Regulation (FAR) and Defense Acquisition Regulation (DFARS) contain hundreds upon hundreds of pages of “shall do” and “shall not do” rules. The last thing needed is for Congress to enact additional legislation making the process even more laborious and burdensome.

The Department of Defense’s heavy reliance on contracting has had an unintended consequence of creating an environment where money can be easily mismanaged and individuals can exploit the system for financial gain. The contracting process does not require a major overhaul in order to prevent misuse of funds and save money. All that is required is a straightforward streamlining and standardizing of processes and procedures already in place and the purging of antiquated and redundant rules and regulations. Below are ten recommendations that will have an immediate positive impact on the acquisition/contracting process. The recommendations are easily implemented and will increase efficiency while reducing losses from fraud, waste, and abuse. The recommendations provided are based on personal experience as a

Warranted Contracting Officer as well as an interview with the Chief of Contracting at a major Government instillation who has over 30 years experience.⁴⁴

- 1.) Expand commercial competition under existing contracting vehicles. Greater competition equates to greater value for the Government, both in price and quality. Increased competition also helps prevent fraudulent activity like bribes, kick-backs, and contractor favouritism. Use to a greater extent Simplified Acquisition Procedures under the Simplified Acquisition Threshold as provided for in the Federal Acquisition Regulations, Subpart 13.5. This would help expedite and simplify the contracting process, saving time and money.
- 2.) Stop over-relying on contractors to perform “inherently governmental” work. Hiring contractors has become the fast and easy way to get things done and has created a knowledge gap/training void within the military. Paying contractors to perform work that can/should be done by military personnel has lead to unnecessary expenditures in the billions of dollars. This dependency has created enormous waste within the system.
- 3.) Use risk-based assessment and risk factor screening for contingency contracting. There is typically a rush in getting a contract awarded because most requirements are time critical and urgently needed. This hurried effort can have unforeseen consequences, such as cost overruns and time delays. Developing upfront assessment measures and screening factors prior to contract award can help mitigate unanticipated outcomes and prevent waste.
- 4.) Promote greater transparency by using “full and open competition” rules. The Federal Acquisition Regulations, Subpart 6.1, requires the use of full and open completion when soliciting for contractor bids. However, FAR Subpart 6.3 provides exceptions for other than full and open competition. Subpart 6.3 has been overly used and abused over the last decade. Full and open competition is the only way to ensure “best value” for the Government. Greater transparency will help prevent fraud and abuse.
- 5.) Stop downsizing the civilian acquisition and contracting workforce. Recent Government hiring freezes as well as an aging workforce nearing retirement have created a shortage of personnel with significant knowledge and experience. Expanding hiring opportunities and rebuild tomorrow’s workforce today will prevent a future crisis from occurring. The more experienced the Contracting Officers, the more efficient the contracting shop. Experienced contracting personnel can more easily identify and prevent fraud, waste, and abuse.
- 6.) Increase baseline training requirements and provide follow-on advanced training. Expand resident and non-resident training opportunities for personnel through the Defense Acquisition University (DAU) curriculum. A well trained workforce has a more thorough understanding of the rules and regulations which in-turn has a direct impact on fraud, waste, and abuse occurrences.
- 7.) Provide Title 10 exceptions; use Title 50 with waiver approval. The Department of Defense falls under Title 10 provisions. Title 50, which the Central Intelligence Agency operates under is considerably less restrictive than Title 10. Allowing various Department of Defense

organizations, such as, Special Operations Commands to operation under Title 50 would provide greater flexibility in meeting critical mission sets and National Security requirements. Time is money. Enabling Title 10 exceptions would speed up critical requirement delivery and decrease waste from over-ordering of spare materials.

8.) Increase Inter-agency contracting agreements; promote sharing of resources. The Economy Act allows for the Department of Defense to use existing contracts held by other agencies, such as the Department of State, if certain criteria is met. Instead of having multiple contracts with the same vendor for the same service or supply, Government Agencies' can enter into an Inter-Agency agreement to use the same contract. This can be a significant time and money saver. Many vendors give bulk discounts when a certain amount of material or service is ordered. By pooling orders, the Government can achieve significant savings from the vendor and also decrease administrative costs associated with new contract awards.

9.) Create deployable acquisition-contracting support teams for oversight and contingency. Over the last decade Contingency Contracting has become critically important in forward deployed areas around the world. Unfortunately, contingency operations have been a leading contributor to the fraud cases being uncovered over the last decade. Independent support teams operating autonomously could provide much needed oversight and support in fraud prevention.

10.) Expand Small Business contracting opportunities. Promoting greater Small Business participation in government contracts helps to increase competition and prevent large businesses from monopolising the marketplace and controlling prices. Small Business participation leads to cutting edge innovation, lower prices, and greater product variety for the Government.

The budget process is another area with ample opportunity for mitigating fraud, waste, and abuse. As previously discussed, the budget is a convoluted mess of endless procedures and rules. To fix the entire budgetary process would be an exercise in futility. This does not mean there is no possibility for making small changes that would result in big payoffs. One of the biggest time and money drainers is the end-of-fiscal year crunch time when every military organization is trying to expend all Operations & Maintenance (O&M) funds before they expire at midnight on 30 September.

Many Commanding Officers fear that if their command does not expend all of its annual funding, next year's budget will be reduced by the amount unspent from the prior year. This of course is not the case; still every attempt is made to spend every nickel, regardless of need.

Typically, the first 3 quarters of a new fiscal year are when most commands use O&M funds on mission essential materials and services...vital needs of the command. It is in the 4th quarter, as 30 September approaches, the concern is no longer about needs, but wants. The “wants” are those non-essential nice to have items. Spending the money becomes the primary objective irrespective of the necessity or rational for the materials being purchased. Waste becomes a huge issue because many treat the end-of-year as a Walmart shopping spree

One of the easiest ways to prevent wasteful spending at the end-of-year would be to change the timeframe that O&M appropriations can be used. O&M funds are currently good for only one year from 1 October to 30 September. This is why there is a huge end-of-year rush to spend the money. Going to a multiyear appropriation instead of the annual appropriation would alleviate hasty irrational spending in the 4th quarter and prevent much of the waste from occurring. The biggest obstacle for the multiyear funding would be getting Congressional approval for the appropriations change. Congressional approval is by no means an easy process, but the multiyear appropriation is not without precedence. Procurement, Research-Development-Test and Evaluation (RDT&E), and Construction (MILCON) are all multiple year funds. Congressman Paul Ryan, Chairman of the House Committee on the Budget has expressed some interest in the idea of multiyear funding. On 7 December 11, Congressman Ryan was interviewed by Neil Cavuto on Your World Report and discussed how getting away from annual appropriation could save both time and money.⁴⁵

Conclusion:

Any organization as large as The Department of Defense will inevitably have numerous inefficiencies. Unfortunately, many of the inefficiencies are so ingrained and woven into the culture that they become commonplace...an afterthought...the cost of doing business. This fact in

no way can excuse the billions of dollars that have been lost. It is imperative that every person in the Department of Defense take seriously their fiduciary responsibilities when expending taxpayer dollars. Staunch advocacy on this issue will be necessary to streamline the system and maximize efficiency. Fraud, waste, and abuse cannot and should not be tolerated and must be stricken from the military lexicon.

The intent of this thesis was to provide a brief backdrop on the fiscal issues facing the United States Military and present a way forward using simple process improvements within the budget, acquisition, and contracting process to reduce losses and help prevent fraud, waste, and abuse. The ideas presented here represent only a fraction of the potential cost savings measures that can be implemented. An austere fiscal environment calls for a fundamental changes in the way the military does business. If nothing is done soon the opportunity for simple fixes will be lost and only draconian choices will remain.

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